IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.1764 of 2005

Between:

V. Yadagiri Goud, S/o V. Ramakistaiah,
R/o H.No. 7-1-377, Balkampet, B.K. Guda, Hyderabad.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, Hyderabad, rep. by its Chief City Planner.
2 The Assistant City Planner, Circle No.5, Municipal Corporation of Hyderabad,
Khairtabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in threatening to demolish the petitioners house property bearing Municipal No. 7-1-377, situated at Balkampet, B.K. Guda, Hyderabad, high handedly, without any notice or giving opportunity, as arbitrary, unjust and illegal and consequently direct the respondents not to interfere with the petitioners house bearing Municipal No. 7-1-377, situated at Balkampet, B.K. Guda, Hyderabad.

Counsel for the Petitioner:MR. V.Jagapathi for Mr.T.RAGHU RAM

Counsel for the Respondent Nos.1 and 2: SMT.G.JYOTHI KIRAN (SC FOR MUNICIPALITY)

The Court at the stage of admission made the following :

ORDER:

Heard learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

The petitioner seeks a writ of *Mandamus* declaring the alleged action of the second respondent in seeking to demolish the petitioner's house property bearing Municipal Door No.
7-1-377, without giving any notice or opportunity to him to put forth his plea, as arbitrary and illegal.

Learned Standing Counsel, under instructions, states that as a matter of fact, a notice under Section 452(2) of the Hyderabad Municipal Corporation Act, 1955 was issued to the petitioner on 09.08.2004 calling upon him to show cause why a portion of the building should not be removed for certain irregularities specified thereon. As no explanation has been received from the petitioner so far, the respondents have rightly initiated the impugned action.

However, learned counsel for the petitioner, across the bar, states that no such notice was ever served on the petitioner.

Having regard to the facts and circumstances of the case, the writ petition is disposed of granting liberty to the petitioner to submit his explanation to the show cause notice dated 09.08.2004, a copy of which has now been served on Sri.V.Jagapathi learned counsel for the petitioner in the open Court, within two weeks from today. If any such explanation is submitted by the petitioner, the respondents shall consider the same and pass appropriate orders in accordance with law. Till such time, the respondents shall not interfere with the possession of the petitioner in respect of the property in question.

The Writ Petition is accordingly disposed of. No costs.

_____

10.02.2005

Note:- Cc by tomorrow.

(B/O)

sh

To

1 The Chief City Planner, Municipal Corporation of Hyderabad, Hyderabad.
2 The Assistant City Planner, Circle No.5, Municipal Corporation of Hyderabad,
Khairtabad, Hyderabad.

3 2 CD copies